



Talbot County Planning Commission
Final Decision Summary

Wednesday, December 2, 2020 at 9:00 a.m.
Wye Oak Room, Talbot Community Center

Attendance:

Commission Members:

Phillip "Chip" Councill, Chairman
Lisa Ghezzi
Michael Strannahan
Paul Spies

Attended by Teleconference:

William Boicourt, Vice Chairman

Staff:

Mary Kay Verdery, Planning Officer
Maria Brophy, Planner II
Elisa Deflaux, Planner II
Mike Mertaugh, Assistant County Engineer
Ray Clarke, County Engineer

1. Call to Order—Commissioner Councill called the meeting to order at 9:00 a.m.

2. Decision Summary Review

November 4, 2020

The Commission noted the following corrections to the draft decision summary:

- a. Line 34 — correct to read a.m.
- b. Line 91— remove "the"
- c. Line 78— replace "we" with "the County"
- d. Line 92— correct "Certificates" to "Certificate"
- e. Line 93— correct to "19-30" to "190-30"
- f. Line 153—Spell out "right-of-way"
- g. Line 181— correct of "applications" to "applicants"
- h. Line 276— replace "continuous" with "contiguous"
- i. Line 329— insert "had"
- j. Line 334—verify the price of \$23,000.00 to \$30,000.00. This amount was correct. Per Ray Clarke "The \$12,000.00 capital charge is within the \$23,000 to \$30,000 total cost for connecting to the County-owned sewer system. If a property owner makes less than \$300,000 per year, they would qualify for a \$20,000 grant through the Bay Restoration Fund if their septic systems were constructed before October 2008. (Unimproved [vacant lots] property would not qualify for the Bay Restoration Fund grant.) This grant would be subtracted from the total cost of \$23,000 to \$30,000 which would require the property owner to pay \$3,000.00 to \$10,000.00 for connecting to the County-owned sewer system."
- k. Line 437— correct to read a.m.

Commissioner Strannahan moved to approve the December 2, 2020 Decision Summary, with amendments. Commissioner Ghezzi seconded the motion. The motion carried (5-0).

52
53 **3. Old Business**

54 **a. Applicant:** Charles Strasburger
55 **File No.:** C-717
56 **Agent:** Lyndsey Ryan, Booth, Cropper, & Marriner, PC
57 **Request:** Recommendation to County Council to amend Section 190-331.B
58 of the Talbot County Code to permit a private pier as an accessory
59 structure on a lot without a principal use under certain conditions
60 **Location:** 9779 Leeds Landing Rd, Easton, MD 21601
61 **Zoning:** Map 24, Grid 2, Parcel 60; Zone: VR
62

63 Lyndsey Ryan and Mr. Strasburger appeared in person. Mary Kay Verdery read the staff
64 report. The purpose of this application is a recommendation to County Council to amend
65 Section 190-33.1.B of the Talbot County Code to permit a private pier as an accessory
66 structure on a lot without a principal use or structure under certain conditions. After a
67 long discussion during the November 4th Planning Commission meeting, the Commission
68 asked the applicant to consider alternative language that was not as restrictive or narrow,
69 but would accomplish their desired outcome. On November 11, 2020, Lyndsey provided
70 the County staff with four alternatives. Talbot County Staff stated they preferred Option
71 (4) which amends §190-33. In addition, a reference to the new language would be added
72 in the pier section of the Code. Staff provided the Planning Commissioners a copy of
73 staff recommendations for amending this section following the format of the Code.
74

75 Lyndsey Ryan stated she preferred the first three options but still supported option four.
76 She does not believe that this situation meets the requirements for a special exception.
77 Commissioner Councell disagreed. He stated that the special exception process allows the
78 applicant a chance to present their application to the Board of Appeals. It also allows
79 neighbors to voice their concerns or support. Mr. Strasburger expressed his desire to use
80 his Riparian rights that are guaranteed by the constitution. Commissioner Spies expressed
81 his support of Riparian rights. He also stated he had an issue that one of the County's
82 requirements is a primary residence prior to a pier. He stated, "This separates those who
83 have the money to build at the time and those who do not." However, he continued that
84 for the record he does believe this is a step in the right direction. Commissioner Ghezzi
85 asked the Planning Officer for a recommendation on the best date to insert into (4A):
86 "The Two noncontiguous lands are in common ownership, described in a single deed as
87 of August 13, 1989, or the effective date of this ordinance, and divided by a road only".
88 Mary Kay Verdery responded that August 13, 1989, which is the date that local Critical
89 Area regulations came into effect, would be Staff's recommendation. Commissioner
90 Councell agreed on the use of the August 13, 1989 date.
91

92 **Commissioner Ghezzi moved to recommend approval to the County Council for the**
93 **text amendment to allow a pier on a noncontiguous parcel by special exception subject**
94 **to staff recommendations including the August 13, 1989 date. Commissioner**
95 **Strannahan seconded the motion. The motion carried (5-0).**
96

97 **4. New Business**

- 98
- 99 **a. Applicant:** **Talbot County**
- 100 **File No.:** **SP626**
- 101 **Agent:** Warren Edwards, Talbot County Roads Department
- 102 **Request:** 1. Waiver of installation of sidewalk and streetlights per § 190-
- 103 35.5 of the Talbot County Code
- 104 2. Waiver of minimum landscaping requirements per § 190-40 of
- 105 the Talbot County Code
- 106 3. Waiver of bicycle parking facilities per § 41.6 of the Talbot
- 107 County Code
- 108 **Location:** St. Michaels Rd, Easton, MD 21601
- 109 **Zoning:** Map 34, Grid 2, Parcel 11, Zone: CP
- 110

111 Elisa Deflaux, Planner II, read the staff report. The applicant is seeking three waivers

112 associated with the Major Site Plan approval granted by the Planning Commission on

113 November 4, 2020 to operate a repurposing facility under the land use category of

114 *Product Recycling*, Section 190-30.12 of the Code. Staff noted they support an approval

115 from the Planning Commission for the three waivers of the Major Site Plan requirements

116 subject to the Conditions of Approval and based on the Findings for Approval. Staff

117 recommended the following condition:

118

- 119 1. The applicant shall comply with and address all additional TAC comments from the
- 120 November 12, 2020 meeting.
- 121

122 The Commission noted this project had been in front of them before. Commissioner

123 Ghezzi wanted to commend Mr. Edwards for his forward thinking on this project.

124 Commissioner Spies expressed concern that sidewalks and streetlights could be needed in

125 the future.

126

127 **Commissioner Spies moved to recommend that the Planning Commission approve**

128 **the landscaping, bicycle parking, sidewalks and streetlights waivers for the Talbot**

129 **County Repurposing Facility located at 28128 St. Michaels Road subject to staff to**

130 **conditions and the condition of the addition of sidewalks and streetlights if needed in**

131 **the future. Commissioner Boicourt seconded the motion. The motion carried (5-0).**

132

- 133 **b. Applicant:** **Kenneth Kowal**
- 134 **File No.:** **MV40**
- 135 **Agent:** N/A
- 136 **Request:** Minor Variance
- 137 **Location:** 21876 Albie Rd, Sherwood, MD 21665
- 138 **Zoning:** Map 30, Grid 17, Parcel 70; Zones: RC, CAO
- 139

140 Maria Brophy, Planner II, read the staff report. The applicant is seeking Planning

141 Commission recommendation of approval for a Minor Variance to construct a +/- 13.4'x +/-

7.9' interior stairwell addition, +/- 6.8' x +/- 6' mudroom addition, and +/- 3.4' x +/- 9.7' family room addition located within the 100' Shoreline Development Buffer and extending no closer than the existing setback of 64' from the closest point of the structure to tidal wetlands. Staff noted they support a Planning Commission recommendation of approval subject to the Conditions of Approval and based on the Findings for Approval. Should the Planning Commission recommend approval of the Minor Variance, staff recommended the following conditions:

1. The applicant shall receive a Certificate of Nonconformity for the existing dwelling.
2. The applicant shall apply for and receive approval of a Buffer Management Plan that complies with all requirements of the Critical Area Law.
3. The applicant shall make an application to the Office of Permits and Inspections, and follow all rules, procedures, and construction timelines as outlined regarding new construction.
4. The applicant shall comply with all lot coverage requirements as spelled out in the *Talbot County Code*.
5. The applicant shall commence construction of the proposed improvements within eighteen (18) months from the date of the Planning Office's "Notice to Proceed".

The applicant was not available for this meeting. The applicant did contact Maria Brophy stating that a work emergency had caused him to miss this meeting. It is not common for the Planning Commissioners to proceed on an application without the applicant. Due to the pandemic and particulars of this application, they decided to make an exception.

Commissioner Spies moved that the Planning Commission recommend to the Planning Officer approval of the Minor Variance # MV40 for Kenneth Kowal located at 21876 Albie Road subject to staff conditions. Commissioner Strannahan seconded the motion. The motion carried (5-0).

c. Applicant: Moores Rd, LLC
File No.: C-708
Agent: Sean Callahan, Lane Engineering, LLC
Request: Amendment to Official Zoning Map to rezone 2.029 acres from Village Hamlet to Western Rural Conservation
Location: Lindsay Lane, Royal Oak, MD 21662
Zoning: Map 41, Grid 7, Parcel 68; Zones: VH, WRC, RC, CAO

POSTPONED UNTIL JANUARY 6, 2021

d. Applicant: Moores Rd. LLC
File No.: M1170 & L1350

Agent: Sean Callahan, Lane Engineering, LLC
Request: 1. Preliminary Major Subdivision
2. Waiver of installation of sidewalk and streetlights per § 190-35.5 of the Talbot County Code
Location: MD-329 & Bellevue Road, Royal Oak, MD 21662
Zoning: Map 41, Grid 7, Parcel 68; Zones: VH, WRC, RC, CAO

Elisa Deflaux, Planner II, read the staff report. The applicant is seeking Planning Commission approval for a Major Subdivision and Major Revision Plat - Preliminary Plat to subdivide Parcel 68, existing Lots 1, 2, 3, 4 to create Lots 1A, 2A, 3A, 4A with two new private roads; and create Lot 10 as a buildable lot. The redevelopment of this site requires relocation of existing lot lines, to include the reduction in the area of Revised Lot 9 to enlarge Revised Lot 5. The lot line revision was determined to be consistent with a Major Revision Plat. Staff noted they support Planning Commission preliminary plat approval subject to the Conditions of Approval and based on the Findings for Approval. The applicant also applied for waivers of the requirement under §190-35.5 for sidewalks and streetlights. Staff noted they support approval of the waivers for sidewalks and streetlights. Should the Planning Commission approve the Preliminary Major Subdivision and Major Revision Plat, staff recommended the following conditions:

1. The applicant shall comply with TAC comments from the November 12, 2020 meeting prior to Final Plat Submittal.
2. The proposed rezoning of 2.029 acres of VH to WRC will need to be completed by Final Plat submittal.
3. The relocation of the structures as necessary to comply with the plat will need to be completed prior to Final Plat submittal.

Sean Callahan of Lane Engineering and his client Clint Wadsworth appeared in person. They noted the project had been in front of the Planning Commission before. Sean Callahan gave a brief description of the project. Mary Kay Verdery, Acting Planning Officer, stated that she supported the general layout. However, it was subject to the zoning map amendment which will be on next month's agenda for a recommendation to the County Council. She stated the amendment will need to be approved before final plat approval.

Commissioner Councill asked for public comment. There was none. Commissioner Boicourt inquired about the location of the sidewalks and streetlights in the village. Commissioner Councill asked if the current residents walked to retrieve their mail. Mr. Wadsworth stated that there is a mailbox on the property; the residents do not need to walk downtown to retrieve mail. To clarify for the Commissioners, Mary Kay Verdery stated that the sidewalks would be required on both roads; Bellevue Road and the State Highway, Royal Oak Road. An alternative would be a sidewalk easement, for future use if necessary. Commissioner Councill asked Mr. Callahan about the possibility of

including an easement. Mr. Callahan stated that normally when the State Highway Administration comes in to do a road improvement project they usually condemn the land and construct a sidewalk. Although there is already a fifteen (15) foot road easement on paper for Bellevue Road, there is more land available if needed. He also stated that there is a five (5) foot wide road easement shown on Royal Oak Rd. Mike Mertaugh, Assistant County Engineer, stated it is true that if the State Highway Administration wanted to put in a sidewalk they would acquire land by condemnation. However, they would prefer it to be fee simple land. If there were an easement, acquisition would be less costly for the State. He did not believe the easement would affect the setbacks. Mr. Wadsworth stated that years ago the State Highway Administration discussed putting in a Bicycle path in Royal Oak. However the community was against it at the time.

Commissioners Strannahan and Spies expressed that they do not believe that there is a current need for sidewalks but with the growth potential of Royal Oak, it could be possible in the future. Commissioner Councill asked the client if they wanted to move forward with the Preliminary Major Subdivision and Revision Plat and place the waiver on hold. Mr. Callahan agreed.

Commissioner Strannahan moved that the Planning Commission approve the preliminary major subdivision and revision plat for Moores Road, LLC, located at MD-329 & Bellevue Road, Royal Oak, MD 21662, subject to staff conditions. Commissioner Spies seconded the motion. The motion carried (5-0).

e. Applicant:	Timothy Dobson Jr., Dobson Wholesale Plant Nursery
File No.:	SP627
Agent:	Lyndsey Ryan, Booth, Cropper & Marriner, PC
Request:	1. Major Site Plan for Wholesale Plant Nursery and Landscape Contracting
	2. Waiver of installation of sidewalk and streetlights per § 190-35.5 of the Talbot County Code
	3. Waiver of minimum off-street parking requirements per § 190-41.3 of the Talbot County Code
	4. Waiver of minimum landscaping requirements per § 190-40 of the Talbot County Code
Location:	7461 Solitude Rd, St. Michaels, MD 21663
Zoning:	Map 32, Grid 24, Parcel 0140; Zones: WRC, RC, CAO

TABLED AT APPLICANT'S REQUEST

5. Discussions Items

a. Request:	Request from the Planning Director for a land use classification recommendation from the Planning Commission
Location:	12041 Cordova Road, Cordova, MD 21625
Zoning:	Tax Map 12, Grid 1, Parcel 41; AC

The Planning Director is seeking a land use classification recommendation for the collection, storage and transportation of a soil conditioner produced from chicken by-product proposed by Denali Water Solutions, LLC. Denali Water Solutions, LLC is the contract purchaser of the former Allen Harim property located at 12041 Cordova Road. Denali's interest is in using the AC-zoned parcel's large storage pond to collect and store water and chicken by-product (soil conditioner) from poultry processing activities and subsequently transporting and applying the soil conditioners at no cost on farmland in the surrounding areas.

Mark Cropper of Ayres, Jenkins, Gordy & Almand and Lauren Miller representing Denali Water Solutions, LLC were present via telephone. Mr. Cropper expressed his belief that the intended use meets the County's definition of "agricultural" and is a permitted use under "Poultry and Hog houses, Livestock Feeding Lots and Agricultural Lagoons". He referenced the definition of "agricultural" in Talbot County's Code, which does not include the term "on-site". He stated that the intended use of the storage pond is the same as when the plant was operational, with the exception that the soil conditioner is not being produced on-site. He believed that the use of the storage pond was previously considered a by-right permitted use. If it was previously approved by Special Exception, the use has not expired or been abandoned as the federal and state regulatory permits issued for the operation and management of the poultry plants have not expired or been terminated. In response, Mary Kay Verdery referred to § 190-56.6 which states that a special exception use is transferable, without formal or written confirmation, to subsequent owners of a property **if such use has been in continuous operation**. Staff noted that the former poultry processing plant has not been operational for several years.

Staff recommended a land use classification of "Farm Machinery and Supplies Sales." Livestock feeding lots and agricultural lagoons are considered part of the business operations of on-site poultry and hog houses. As such, the intended land use proposed by Denali does not qualify under any land use category of agricultural production. Since the product is not being grown or raised on-site, the intended land use should be considered under the land use category of agricultural and support businesses and services; specifically under the land use classification of "Farm Machinery and Supplies Sales" or "Agricultural Processing". A review of County records show that the former poultry plant received several Special Exceptions over the years. If the former poultry plant were in operation under today's Zoning code, the use would be classified under Agricultural Processing; which is permitted by Special Exception on the AC and VM zoning districts. Alternatively, the land use classification of Farm Machinery and Supplies Sales is a typical classification for agricultural support businesses such as feed mills and can also include structures for chemical and fertilizer storage; consistent with the intended use stated by Denali.

Commissioner Councill inquired about the components of the chicken by-product and asked what exactly would be stored in the lagoons. Ms. Miller stated that she is unable to give specifics at this time and noted the lagoons do have screens so the lagoons should not have bones and feathers. She also noted that the majority of the product is water. Ms.

319 Miller clarified that the product is not a chemical fertilizer; according to the Maryland
320 Department of Agriculture, this is seen as organic soil conditioners. She further stated that
321 Denali is required to submit a nutrient sample each year. Mary Kay Verdery responded
322 that it was the first time that she had heard the applicant use the word “organic” and noted
323 the County code does have land use categories for “organic” that she would like time to
324 look into.

325
326 Commissioner Boicourt stated he believed that the uses seem similar but the main concern
327 is nutrient management. Commissioner Councell agreed the use is similar, but expressed
328 the main difference is truck traffic. Commissioner Strannahan and Commissioner Ghezzi
329 both agreed that more specific information on the product is needed. Commissioner
330 Ghezzi believed letters of support from potential customers of this product may be helpful.
331 Commissioners Spies stated he would like to know more information regarding truck
332 patterns in and out of the facility. Commissioner Councell also stated he needed more
333 information about the product and noted he honestly is not excited about the Village of
334 Cordova taking in waste from across the shore and that the possibility residents would be
335 exposed to noise disturbance and odor is concerning. He hoped that the discussion helped
336 the applicant decide if they would like to continue or walk away from this project. Mr.
337 Cropper thanked the Planning Commission for the honest discussion and stated if his
338 client wishes to continue, he will contact staff.

339
340 **6. Staff Matters—** Mary Kay Verdery took the opportunity to thank all of the Planning
341 Commissioners, as this was her last Planning Commission meeting. Happy Retirement
342 Mary Kay Verdery!

343
344 **7. Work Sessions—**None.

345
346 **8. Commission Matters—** Due to COVID-19, the County Council is now conducting all
347 meetings virtual. After a discussion between staff and the Planning Commissioners, the
348 Planning Commission meeting for January 2021 will be handled via conference call.

349
350 **9. Adjournment—** Commissioner Councell adjourned the meeting at 11:15 am.